

and Explosives, which is incorporated into contracts under which ammunition and explosives are handled. The manual contains mandatory safety requirements for contractors. When work is to be performed on a Government-owned installation, the contracting officer may use the ammunition and explosives regulation of the DoD component or installation as a substitute for, or supplement to, DoD Manual 4145.26-M, as long as the contract cites these regulations.

223.370-4 Procedures.

(a) *Preaward phase*—(1) *Waiver of the mandatory requirements.* (i) Before either omitting the clause at 252.223-7002, Safety Precautions for Ammunition and Explosives, from solicitations and contracts or waiving the mandatory requirements of the manual, obtain approval of—

(A) The safety personnel responsible for ammunition and explosives safety; and

(B) The head of the contracting activity.

(ii) If the contracting officer decides to waive the mandatory requirements before award, the contracting officer shall set forth in the solicitation, or in an amendment of the solicitation, the specific requirements to be waived.

(iii) If the head of the contracting activity declines to approve a request for waiver, but the prospective contractor agrees to take corrective action to bring the operation into compliance, make the corrective action a part of the resulting contract.

(2) *Transportation considerations*—If shipment of ammunition and explosives is involved in the contract, address in the schedule of the contract the applicable Department of Transportation or Military Traffic Management Command requirements and any other requirements for transportation, packaging, marking, and labeling.

(3) *Disposition of excess*—Include instructions within the contract concerning final disposition of excess Government furnished material containing ammunition and explosives, including defective or rejected supplies.

(4) *Preaward survey*—Before awarding any contract, including purchase orders, involving ammunition and explo-

sives, obtain a preaward ammunition and explosives safety survey. If the prospective contractor proposes subcontracting any ammunitions or explosive work, include a review of the subcontractor's facility in the preaward survey.

(b) *Postaward phase*—(1) *Contract administration office responsibility.* (i) The contract administration office is responsible for verifying that the safety requirements of the clause at 252.223-7002, Safety Precautions for Ammunition and Explosives, are being implemented in a manner that will reduce, to the maximum extent practicable, or eliminate the probability of a mishap occurring.

(ii) The clause at 252.223-7002, Safety Precautions for Ammunition and Explosives, requires the contractor to submit to the administrative contracting officer (ACO) any postaward requests for a waiver of the contract safety standards, a site plan modification, or a construction review. The ACO shall review any request and make recommendations to the contracting officer. The contracting officer shall make a decision after considering recommendations of the ACO and safety personnel responsible for ammunition and explosive safety.

(A) If the request arrives at the contracting office without evidence that the ACO has seen it, immediately send it to the ACO for review and recommendations.

(B) When the contracting officer has made a determination approving or disapproving the contractor's request, send the determination to the ACO for transmission to the contractor.

(2) *Subcontracts*—(i) The clause at 252.223-7002, Safety Precautions for Ammunition and Explosives, requires the contractor to notify the contracting officer when placing a subcontract for ammunition and explosives. The contracting officer should coordinate with the safety personnel and request supporting contract administration in accordance with FAR 42.202(e). If the contracting officer believes the nature of the subcontract

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work poses a potential danger to Government property, Government personnel, production capability, or contract completion, request supporting contract administration.

(ii) If the preaward safety survey identified areas in which a subcontractor was not complying with the manual, and the subcontractor was supposed to correct the deficiencies before start-up, the contracting officer shall require a preoperations survey to verify that the corrections were made.

(iii) When postaward safety reviews by the Government uncover any safety deficiencies in the subcontractor's operation, the review team shall inform the ACO cognizant of the subcontractor, who shall immediately notify the ACO cognizant of the prime contractor. The ACO cognizant of the prime shall inform the prime contractor of deficiencies requiring correction. The notifications shall be made by the most expeditious means appropriate to the circumstance. If a critical safety deficiency poses an imminent danger, the ACO cognizant of the prime shall make the notifications by the most expeditious means available.

[56 FR 36365, July 31, 1991, as amended at 59 FR 27671, May 27, 1994; 64 FR 51076, Sept. 21, 1999]

223.370-5 Contract clauses.

Use the clauses at 252.223-7002, Safety Precautions for Ammunition and Explosives, and 252.223-7003, Change in Place of Performance—Ammunition and Explosives, in all solicitations and contracts for acquisition to which this section applies.

Subpart 223.4—Use of Recovered Materials

223.405 Procedures.

(d) Departments and agencies must centrally collect information submitted in accordance with the clause at FAR 52.223-9 for reporting to the Office of the Deputy Under Secretary of Defense (Environmental Security).

[66 FR 49864, Oct. 1, 2001]

Subpart 223.5—Drug-Free Workplace

SOURCE: 57 FR 32737, July 23, 1992, unless otherwise noted.

223.570 Drug-free work force.

223.570-1 Definitions.

Employee in a sensitive position and illegal drugs, as used in this section, are defined in the clause at 252.223-7004, Drug-Free Work Force.

223.570-2 Policy.

DoD policy is to ensure that its contractors maintain a program for achieving a drug-free work force.

223.570-3 General.

(a) The use of illegal drugs is inconsistent with the law-abiding behavior expected of all citizens. Employees who use illegal drugs tend to be less productive, less reliable, and prone to greater absenteeism. The use of illegal drugs by contractor employees results in the potential for increased cost, delay, and risk in the performance of a Government contract.

(b) If a contractor's employees use illegal drugs at any time, it can—

(1) Impair their ability to perform tasks that are critical to proper contract performance;

(2) Increase the potential for accidents and for failures that can pose a serious threat to the national security, health, and safety;

(3) Cause less than the complete reliability, stability, and good judgment required of an individual who has access to sensitive information;

(4) Create the possibility of coercion, influence, and irresponsible action under pressure that may post a serious risk to national security, health, and safety.

223.570-4 Contract clause.

(a) Use the clause at 252.223-7004, Drug-Free Work Force, in all solicitations and contracts—

(1) That involve access to classified information; or

(2) When the contracting officer determines that the clause is necessary for reasons of national security or for the purpose of protecting the health or